IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 3017 OF 2004

IN

CRIMINAL APPEAL NO. 1259 of 2002

Mammen V. Varghese .. Applicant

versus

State of Maharashtra .. Respondents

...

Mr.S.K. Chinchalikar for the applicant.

Mr.D.P. Adsule APP for the State.

CORAM : V.M. KANADE, J

DATED : 13th September 2004.

P.C:-

1. Heard the learned counsel appearing on behalf of the applicant and the learned APP for the State.

2. This is an application filed for return of muddemal property. By judgement and order, the trial Court has convicted the accused against which an

appeal has been preferred in this Court being Criminal Appeal No.1259 of 2002. This appeal has been admitted. The trial Court in the judgement and order had specifically stated that the amount of Rs.2,00,000/- should be handed over to the complainant Mammen P. Varghese. Thereafter, an application was made by the complainant in the trial Court for return of the said amount. However, the trial Court by an order dated 20th April 2004 has observed that it would not be appropriate for the trial Court to allow the application in view of the fact that the appeal is pending in the High Court.

3. Under the circumstances, I am of the view that the applicant original complainant is entitled for the return of the property (cash).

4. Accordingly, application is allowed in terms of prayer clause (a).

Certified copy expedited.

Parties to act on a copy of this order duly authenticated by the Court Sheristedar.

V.M. KANADE, J